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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,165	10/17/2001	Steve Dispensa	1585	7084

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EXAMINER
PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
2154	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/981,165	DISPENSA ET AL.	
	Examiner	Art Unit	
	Ashok B. Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 January 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-24 are subject to examination.

Response to Arguments

2. Applicant's arguments filed 1/2/2007 have been fully considered but they are not persuasive for the following reasons:

Applicant's arguments:

"The Office action indicates that Booman teaches each of the limitations of claim 1, as well as those of claims 7 and 19. (Pages 3-7 of the Office action.) The Assignee respectfully disagrees, as Booman does not teach or suggest a management system sending instructions to each of an RMON probe, an RMON manager configured to access the RMON probe, and an RMON database configured to be accessed by the RMON manager to request information from each of these devices"

"Unfortunately, the Office action is a bit ambiguous as to which devices or function disclosed in Booman anticipate which limitations of the present claims, as only segments of the Booman text are presented, with various portions therein underlined, and none of these segments are directly related to the language of the claims."

"As a result of the foregoing, Booman does not teach or suggest a system or method of generating an instruction for each of an RMON probe, an RMON manager, and an RMON database to receive RMON information, as set forth in claims 1, 9 and 17."

Examiner's response:

Examiner would like to explain the reference's teachings by stating the facts present in the "reference, step by step, in relation to the arguments presented as well as it's direct relevancy to the claimed limitations as follows. Office action is not ambiguous at all.

Booman's teachings at col. 15, line 59-65, "Furthermore, though we have made a distinction between the master workstation and the remote workstations, **every remote workstation,** or at least some of the remote workstations, can include components and software to function **as both a master and remote workstation.**" Is of a paramount importance to understand it's teachings anticipation of the claimed limitations of claims 1, 9 and 17. Thus the network manager can generate reports from a number of locations within the network."

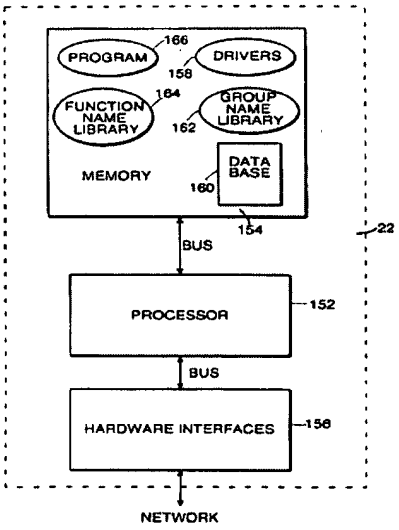

FIG. 4

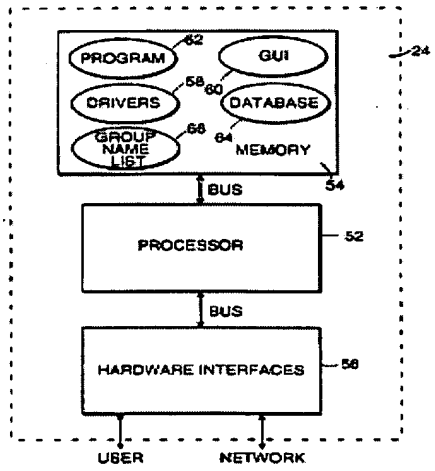

FIG. 2

The teachings illustrated above anticipates that Fig. 4 which is "remote workstation" and Fig. 2, which is " Master workstation" can be one of the remote workstations that "can include components and software to function as both a master and remote workstation."

This teachings is of a paramount importance.

Now the above teachings in mind, let us examine what Fig. 1 teaches, as follows:

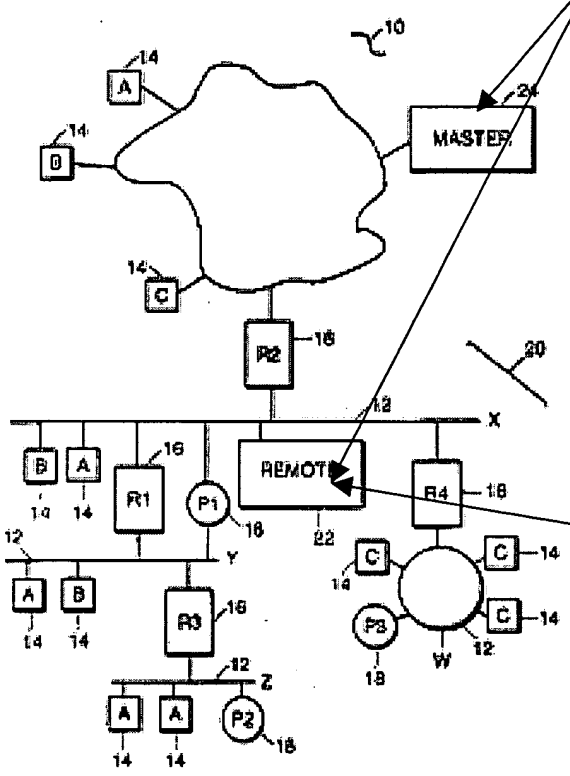

FIG. 1

This "Master" and" Remote" are both "master and remote workstation", and both are Remote Monitoring (RMON) management system.

Booman teaches at col. 9, line 37-53, "After identifying the procedure, the processor sends a request to all of the remote workstations specifying the selected group name and the named functions corresponding to the procedure (step 104)."

Booman teaches at col. 9, line 64-col. 10, line 3, "Upon receiving the request, each remote workstation identifies data related to elements belonging to the selected group. Each remote workstation then processes the identified data according to the algorithms identified by the named functions and sends the outputs back to the master workstation. The master workstation receives the outputs and stores them in its memory (step 106)." Booman teaches at col. 9, line 37-43, "or alternatively, requests to the remote workstations may be sent at different times.

This is one of the "remote workstation", which is RMON Manager and also "Master".

Thus, "generating and transmitting a second instruction for an RMON manager configured to access the RMON probe to request a second portion of the RMON information; receiving and storing the second portion of the RMON information in the memory in the performance management system."

Booman teaches at col. 11, line 8-16, "First, the processor periodically (e.g., every 10 minutes) polls data from the probes and stores this data in database 160 (step 200). We will refer to this data as "raw data". Please note this processor is "remote Workstation" which is configured to poll the RMON probes, and since our Master is both "Master and Remote workstation", Booman teaches "generating and transmitting a first instruction for an RMON probe to request a first portion of RMON information ; receiving and storing the first portion of the RMON information in memory in the management system."

Booman teaches at col. 10, line 53-54 of the "database 160" as shown in Fig. 2 that is incorporated into the "Master remote workstation" which is also Remote Monitoring **(RMON) management system,** "a database 160 that stores data from probes that monitor a portion of the network", above.

Booman teaches at col. 9, line 37-43, "After identifying the procedure, the processor sends a request to all of the remote workstations specifying the selected group name and the named functions corresponding to the procedure (step 104). The request may be sent simultaneously to all of the remote workstations, i.e., as a multicast, or alternatively, requests to the remote workstations may be sent at different times.

Thus, "generating and transmitting a third instruction for an RMON database configured to be accessed by the RMON manager to request a third portion of the RMON information; and receiving and storing the third portion of the RMON information in memory in the management system."

Finally, Booman teaches at col. 4, line 37-46, "For clarity, we will refer to the workstation sending the request as the "master workstation" and the workstations storing the data as the "remote workstations". However, for a subsequent report, the workstation that is the master workstation may change, and a workstation that was previously a remote workstation may become the master workstation. In principle, every remote workstation may also be a master workstation. Also, if the master workstation **stores data**, it will be both a master and remote workstation."

Thus, the anticipation as indicated by Booman is not ambiguous.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Booman et al. (hereinafter Booman) (US 6, 216, 169 B1)

Referring to claim 1,

Booman teaches a method of operating a Remote Monitoring (RMON) management system (Fig.1, col. 6, line 15-30), the method comprising:

generating and transmitting a first instruction for an RMON probe to request a first portion of RMON information ;

receiving and storing the first portion of the RMON information in memory in the RMON management system (col. 5, line 32-38, "Once elements in the network have accumulated the data, they can send the data to the remote workstations, i.e., the workstations that process the data in response to the request. Alternatively, the remote workstations can retrieve the data from the elements that accumulated the data. In other cases, the remote workstations themselves accumulate the data.", col. 15, line 59-65, "Furthermore, though we have made a distinction between the master workstation and the remote workstations, every remote workstation, or at least some of the remote workstations, can include components and software to function as both a master and remote workstation. Thus the network manager can generate reports from a number of locations within the network.");

generating and transmitting a second instruction for an RMON manager configured to access the RMON probe to request a second portion of the RMON information; receiving and storing the second portion of the RMON information in the memory in the RMON management system (col. 7, line 4-15, "The data recorded by the probes in portion 20 of the network is periodically (e.g., every 10 minutes) polled by and stored in remote workstation 22. Similarly, data recorded by other probes in the network are polled and stored by other remote workstations located in other portions of the network. Every probe in the network has its data polled and stored by at least one remote workstation. Each one the remote workstations that stores data, is also equipped with software to perform operations on the data and to receive and process instructions (e.g., a multicast or a request) from master workstation 24, as is described

in greater detail below.", and, col. 5, line 32-38, "Once elements in the network have accumulated the data, they can send the data to the remote workstations, i.e., the workstations that process the data in response to the request. Alternatively, the remote workstations can retrieve the data from the elements that accumulated the data. In other cases, the remote workstations themselves accumulate the data.", col. 15, line 59-65, "Furthermore, though we have made a distinction between the master workstation and the remote workstations, every remote workstation, or at least some of the remote workstations, can include components and software to function as both a master and remote workstation. Thus the network manager can generate reports from a number of locations within the network.");

generating and transmitting a third instruction for an RMON database configured to be accessed by the RMON manager to request a third portion of the RMON information; and receiving and storing the third portion of the RMON information in memory in the RMON management system (col. 5, line 32-38, "Once elements in the network have accumulated the data, they can send the data to the remote workstations, i.e., the workstations that process the data in response to the request. Alternatively, the remote workstations can retrieve the data from the elements that accumulated the data. In other cases, the remote workstations themselves accumulate the data.", col. 15, line 59-65, "Furthermore, though we have made a distinction between the master workstation and the remote workstations, every remote workstation, or at least some of the remote workstations, can include components and software to function as both a master and remote workstation. Thus the network manager can generate reports from

a number of locations within the network." **Note:** Booman offers various configurations of the performance management system, including in col. 4, line 37-46, "For clarity, we will refer to the workstation sending the request as the "master workstation" and the workstations storing the data as the "remote workstations". However, for a subsequent report, the workstation that is the master workstation may change, and a workstation that was previously a remote workstation may become the master workstation. In principle, every remote workstation may also be a master workstation. Also, if the master workstation stores data, it will be both a master and remote workstation." The performance management system is offered as indicated in col. 3, line 64-col.4, line 5, "(3) We refer to information desired by a user and its display as a "report". Typically, a report is specific to a subset of elements, which we refer to as a "group". For example, if the workstations store data about the performance of various applications running on nearby servers, the group can be the performance data from servers running a specific application, the performance data from servers running the applications for a specific set of users, or the performance data for servers in a specific geographic region.")

Referring to claim 2,

Booman teaches the method of claim 1 wherein the RMON information comprises datalink layer information. (col . 6, line 55-col.7, line 3).

Referring to claim 3,

Booman teaches the method of claim 1 wherein the RMON information comprises application layer information. (col . 6, line 55-col.7, line 3).

Referring to claim 4,

Booman teaches the method of claim 1 wherein the RMON information is based on a media access control address. (col . 6, line 55-col.7, line 3).

Referring to claim 5,

Booman teaches the method of claim 1 wherein the RMON information comprises a number of users. (col . 3, line 51-63).

Referring to claims 6, 7 and 8,

Booman teaches the method of claim 1 wherein the RMON information comprises a number of bytes transmitted, and wherein the RMON information comprises download speed, and wherein the RMON information comprises bits per second. (col. 7, line 65-, col. 8, line 15)

Referring to claim 9,

Claim 9 is a claim to software product on a software storage medium storing instructions to carry out the method of claim 1 . Therefore claim 9 is rejected for the reasons set forth for claim 1 .

Referring to claim 10,

Claim 10 is a claim to s6ftware product on a software storage medium storing instructions to carry out the method of claim 2. Therefore claim 10 is rejected for the reasons set forth for claim 2.

Referring to claim 11,

Claim 11 is a claim to software product on a software storage medium storing instructions to carry out the method of claim 3. Therefore claim 11 is rejected for the reasons set forth for claim 3.

Referring to claim 12,

Claim 12 is a claim to software product on a software storage medium storing instructions to carry out the method of claim 4. Therefore claim 12 is rejected for the reasons set forth for claim 4.

Referring to claim 13,

Claim 13 is a claim to software product on a software storage medium storing instructions to carry out the method of claim 5. Therefore claim 13 is rejected for the reasons set forth for claim 5.

Referring to claims 14, 15 and 16,

Claims 14, 15 and 16 are claims to software product on a software storage medium storing instructions to carry out the method of claims 6, 7 and 8. Therefore claims 14, 15 and 16 are rejected for the reasons set forth for claims 6, 7 and 8.

Referring to claim 17,

Claim 17 is a claim to Remote monitoring management system adapted to carry out the Method of claim 1. Therefore claim 17 is rejected for the reasons set forth for claim 1 .

Referring to claim 18,

Claim 18 is a claim to Remote monitoring management system adapted to carry out the method of claim 2. Therefore claim 18 is rejected for the reasons set forth for claim 2.

Referring to claim 19,

Claim 19 is a claim to Remote monitoring management system adapted to carry out the method of claim 3. Therefore claim 19 is rejected for the reasons set forth for claim 3.

Referring to claim 20,

Claim 20 is a claim to Remote monitoring management system adapted to carry out the method of claim 4. Therefore claim 20 is rejected for the reasons set forth for claim 4.

Referring to claim 21,

Claim 21 is a claim to Remote monitoring management system adapted to carry out the method of claim 5. Therefore claim 21 is rejected for the reasons set forth for claim 5.

Referring to claims 22, 23 and 24,

Claims 22, 23 and 24 are claims to Remote monitoring management system adapted to carry out the method of claims 6, 7 and 8. Therefore claims 22, 23 and 24 are rejected for the reasons set forth for claims 6, 7 and 8.

Conclusion

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the

claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 6:30 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan A. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Abp
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